

GEORGIA SOIL AND WATER CONSERVATION COMMISSION

4310 Lexington Road
P.O. Box 8024
Athens, Georgia 30603
Telephone (706) 542-3065
FAX (706) 542-4242

January 12, 2005

TO:

- (a) Legislative Counsel
- (b) Members, Senate Natural Resources Committee
- (c) Members, House Natural Resources and Environment Committee
- (d) Soil and Water Conservation Commission Advisory Group
- (e) GACDS Officers and Board of Directors
- (f) Stakeholder Advisory Board
- (g) All Parties on Conservation Commission Rulemaking Mailing List

From:

Georgia Soil and Water Conservation Commission
David Bennett, Executive Director
4310 Lexington Road
P.O. Box 8024
Athens, GA 30603

RE:

Adoption of Rules to be enacted to Education and Training Certification Requirements for Persons Involved with Land Disturbing Activities

All interested parties are hereby notified pursuant to the Official Code of Georgia Annotated Sections 50-13-4, 2-6-27(7.1) and 12-7-19 that the Georgia Soil and Water Conservation Commission intends to consider and adopt Rules for Education and Training Certification Requirements for Persons Involved with Land Disturbing Activities. The Conservation Commission intends to act on the Rules at its February 17, 2005 board meeting to be held at 8:00 a.m. at the Fanning Institute for Leadership, 1240 South Lumpkin Street, Athens, Georgia.

This notice, together with an exact copy of the proposed Rules and Regulations and a synopsis, is being provided to all persons listed on the above distribution list. This notice, an exact copy of the proposed Rules and Regulations, and a synopsis may be viewed at <http://www.gaswcc.georgia.gov>. A copy of this notice, together with an exact copy of the proposed Rules and Regulations and a synopsis, may be reviewed during normal business hours of 8:00 a.m. to 4:30 p.m. at the

Georgia Soil and Water Conservation Commission, 4310 Lexington Road, Athens, Georgia.

To provide the public an opportunity to comment upon and provide input into these Rules, a public hearing will be held at 10:00 am February 10, 2004 at the Georgia Center for Continuing Education, 1197 South Lumpkin Street, Athens, Georgia. At the public hearing, anyone may present data, make a statement, comment or offer a viewpoint or argument either orally or in writing. Lengthy statements of a considerable technical or economic nature, as well as previously recorded messages, must be submitted in writing for the official record. Oral statements should be concise.

Written comments are welcomed. To ensure their consideration, written comments must be received by the Conservation Commission by close of business on February 11, 2005. Written comments should be addressed to: Executive Director, Georgia Soil and Water Conservation Commission, Attention: E&SC Certification, P.O. Box 8024, Athens, GA 30603.

The Conservation Commission proposes that the Rules become effective as provided by law twenty (20) days after approval in the Conservation Commission board meeting on February 17, 2005, and subsequent filing with the Secretary of State.

For further information, contact the Georgia Soil and Water Conservation Commission at (706) 542-3065.

NOTICE OF PROPOSED RULE MAKING

CHAPTER 600-8 – Education and Training Certification Requirements for Persons Involved with Land Disturbing Activities

(1) Notice of Proposed Rulemaking

(a) Introduction and Jurisdiction

The State Soil and Water Conservation Commission (the “Conservation Commission”) was created under the Soil and Water Conservation Districts Law, O.C.G.A. § 2-6-20, et seq. The Conservation Commission was created to serve as the Governor’s arm in carrying out the administrative functions necessary for the operation of the Soil and Water Conservation Districts program. The Conservation Commission is authorized under O.C.G.A. § 2-6-27 to receive gifts, appropriations, materials, equipment, land and facilities and to manage and disperse same in support of soil and water conservation activities.

The purpose of the Education and Training Certification Requirements for Persons Involved with Land Disturbing Activities is to implement a program for the administration of the education and training program established under O.C.G.A. § 12-7-19 as directed by Act 36, House Bill 285, effective May 27, 2003.

(b) Synopsis and Explanation of Rules

The State of Georgia has a major interest in the control of water pollution and surface-water use, generally soil erosion and sedimentation, and the issuance of permits for land disturbing activities. This notice of proposed rulemaking contains the regulations for meeting the education and training certification requirements of the “Erosion and Sedimentation Act of 1975, as amended,” specifically O.C.G.A. § 12-7-19, which requires all persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity meet the education and training certification requirements, dependent on their level of involvement with the process, according to requirements developed by the Conservation Commission in consultation with the Environmental Protection Division of the Department of Natural Resources (the “Division”) and the Stakeholder Advisory Board pursuant to O.C.G.A. § 12-7-20. The Conservation Commission is responsible for planning and administering the program.

The Proposed Rules establish the following training programs:

- (i) A fundamentals seminar (Level 1A) to provide sufficient training to all participants as to the applicable laws, requirements, processes, and latest

means and methods recognized by the state to effectively control erosion and sedimentation;

- (ii) An advanced fundamentals seminar (Level 1B) to provide additional details of installation and maintenance of best management practices for both regulatory and nonregulatory inspectors and others;
- (iii) An introduction to design seminar (Level 2) to provide required training to design and review a successful erosion, sedimentation and pollution control plan;
- (iv) An awareness seminar (Level 1) to provide information regarding the erosion and sediment control practices and processes in the state and which includes an overview of the systems, laws, and roles of the participants;
- (v) A trainer and instructor seminar for both Level 1 and Level 2 trainers and instructors and to provide the minimum training as to the applicable laws and best management practices and design of erosion, sedimentation, and pollution control plans in the state. The objectives for these courses are to train qualified instructors from other government or nongovernmental agencies/organizations to present the educational courses in strict adherence to the Conservation Commission's course outlines and materials.

(c) Rules

The full text of each component of the proposed Rules to be included as a new Chapter 600-8 of the rules of the Conservation Commission is attached hereto as Attachment "A" and incorporated herein by reference.

ATTACHMENT “A”

RULES OF THE STATE SOIL AND WATER CONSERVATION COMMISSION

CHAPTER 600-8:

**EDUCATION AND TRAINING CERTIFICATION REQUIREMENTS FOR
PERSONS INVOLVED WITH LAND DISTURBING ACTIVITIES**

Chapter 600-8-1

TABLE OF CONTENTS

| | |
|-------------|-------------------------------|
| 600-8-1-.01 | Authority |
| 600-8-1-.02 | Purpose and Scope |
| 600-8-1-.03 | Definitions |
| 600-8-1-.04 | Certification Guidelines |
| 600-8-1-.05 | Trainer/Instructor Guidelines |
| 600-8-1-.06 | Re-Certification Guidelines |

600-8-1-.01 - Authority

The State Soil and Water Conservation Commission (the “Conservation Commission”) was created under the Soil and Water Conservation Districts Law, O.C.G.A. § 2-6-20, et seq. The Conservation Commission was created to serve as the Governor’s arm in carrying out the administrative functions necessary for the operation of the Soil and Water Conservation Districts program. The Conservation Commission is authorized under O.C.G.A. § 2-6-27 to receive gifts, appropriations, materials, equipment, land and facilities and to manage and disperse same in support of soil and water conservation activities.

Authority O.C.G.A. §§ 2-6-27(7.1) and 12-7-19.

600-8-1-.02 - Purpose and Scope

The purpose of the Education and Training Certification Requirements for Persons Involved with Land Disturbing Activities is to implement a program for the administration of the education and training program established under O.C.G.A. § 12-7-19 as directed by Act 36, House Bill 285, effective May 27, 2003.

Authority O.C.G.A. §§ 2-6-27(7.1) and 12-7-19.

600-8-1-.03 - Definitions

As used in this document, the term:

- (a) “Applicant” means any person submitting a request to be considered for certification.
- (b) “Certified Design Professional” means a “Design Professional” who has attended the Conservation Commission’s “Introduction to Design Seminar” (Level 2) and holds a certificate of successful completion of training in design of “Erosion, Sedimentation and Pollution Control Plans.”
- (c) “Certified Inspector” means any person who has attended the Conservation Commission’s “Advanced Fundamentals Seminar” (Level 1B) and holds a certificate of successful completion of training from the Conservation Commission to inspect land-disturbed areas for compliance with the state laws.
- (d) “Certified Personnel” means any person who has attended the Conservation Commission’s “Fundamentals Seminar” (Level 1A) and holds a certificate of successful completion of training from the Conservation Commission in the area of inspection of BMPs on construction sites.
- (e) “Certified Plan Reviewer” means a professional who has attended the Conservation Commission’s “Introduction to Design Seminar” (Level 2) and

holds a certificate of successful completion of training from the Conservation Commission in reviewing “Erosion, Sedimentation and Pollution Control Plans.”

- (f) “Conservation Commission” means the Georgia Soil and Water Conservation Commission.
- (g) “Design Professional” means a professional licensed by the state of Georgia in the field of engineering, architecture, landscape architecture, forestry, geology, or land surveying or a person that is a Certified Professional in Erosion and Sediment Control (CPESC) and certified by the Certified Professional in Erosion and Sediment Control Inc.
- (h) “Division” means Environmental Protection Division of Georgia Department of Natural Resources.
- (i) “E&S Act” or “Act” means the Georgia Erosion and Sedimentation Act of 1975, as amended.
- (j) “Erosion, Sedimentation and Pollution Control Plan” means a document containing a narrative part and a diagrammatic part providing the details of site conditions, best management practices (BMPs) and conservation and engineering principles adopted to control erosion, sedimentation and other pollutants from a land-disturbing activity impacting the land and water resources of the state.
- (k) “Inspector” means an individual who is responsible for periodic examination of erosion, sedimentation and pollution control BMPs of a land-disturbing activity for consistency with the requirements of the Georgia Erosion and Sedimentation Act of 1975, as amended or General NPDES Permits (100001, 100002, 100003).
- (l) “Plan Reviewer” means an individual who is responsible for determining the adequacy of “Erosion, Sedimentation and Pollution Control Plans” and supporting documents for approval by a program authority.
- (m) “Program Authority” means a Soil and Water Conservation District, the Division, or an issuing authority with a memorandum of agreement (MOA) with a Soil and Water Conservation District for reviewing the plan in-house.
- (n) “Qualified Person” means any person who meets or exceeds the education and training requirements of O.C.G.A. § 12-7-19.
- (o) “Stakeholder Advisory Board” or “SAB” means the 13-member board appointed by the Governor in accordance with O.C.G.A. § 12-7-20 of the Georgia Erosion and Sedimentation Act of 1975, as amended.

Authority O.C.G.A. §§ 2-6-27(7.1) and 12-7-19.

600-8-1-.04 – Certification Guidelines

(1) General Information

- (a) Any specified application for Certification or Re-certification for “Certified Personnel,” “Certified Inspector,” “Certified Design Professional” or “Certified Plan Reviewer” must be fully completed and submitted by the applicant. Incomplete applications will be returned to the applicant.
- (b) All correspondence should be directed to:

Georgia Soil and Water Conservation Commission
Urban Water Resources Program
Education/Certification Program

(2) Eligibility Requirements

- (a) Fundamentals Seminar (Level 1A): Certification will take place upon:
 - i. Course and Exam: Registering for and attending a Conservation Commission approved and posted “Fundamentals Seminar” (Level 1A), submitting the appropriate certification application form prior to the examination, and obtaining a passing score on the Level 1A certification examination.
 - [or]
 - ii. Exam Only: Registering for and attending a Conservation Commission approved and posted Level 1A examination date, submitting the appropriate application form prior to the examination for review and approval by the Conservation Commission, providing proof of attendance from a Conservation Commission “NPDES Qualified Personnel Workshop,” “Fundamentals of Erosion and Sediment Control Workshop,” another Conservation Commission and Division approved “qualified personnel” course or equivalent Conservation Commission approved course within three years prior to the examination date, and obtaining a passing score on the Level 1A certification examination.
- (b) Advanced Fundamentals Seminar (Level 1B): Certification will take place upon:
 - i. Course and Exam: Completing at least 60 days of work experience in the field of erosion and sediment control, registering for and attending a Conservation Commission approved and posted “Advanced Fundamentals Seminar” (Level 1B), submitting the appropriate certification application form prior to the examination, and obtaining a passing score on the Level 1B

certification examination. In lieu of 60 days of work experience, an individual may obtain Level IA certification.

[or]

- ii. Exam Only: Completing at least 60 days of work experience in the field of erosion and sediment control, registering for and attending a Conservation Commission approved and posted Level 1B examination date, submitting the appropriate application form prior to the examination for review and approval by the Conservation Commission, providing proof of attendance from a Conservation Commission “Fundamentals of Erosion and Sediment Control Workshop” or equivalent Conservation Commission approved course within 3 years prior to the examination date, and obtaining a passing score on the Level 1B certification examination. In lieu of 60 days of work experience, an individual may obtain Level IA certification.

(c) Introduction to Design Seminar (Level 2): Certification will take place upon:

- i. Design Professionals

- a. Course and Exam: Registering for and attending a Conservation Commission approved and posted “Introduction to Design Seminar” (Level 2), submitting the appropriate application form prior to the examination for review and approval by the Conservation Commission including proof of professional licensure in the field of engineering, architecture, landscape architecture, forestry, geology, or land surveying or CPESC, and obtaining a passing score on the Level 2 certification examination.

[or]

- b. Exam Only: Registering for and attending a Conservation Commission approved and posted Level 2 examination date, submitting the appropriate application form prior to the examination for review and approval by the Conservation Commission including proof of professional licensure in the field of engineering, architecture, landscape architecture, forestry, geology, or land surveying or CPESC, and providing proof of attendance from a Conservation Commission “Design of Vegetative Measures and Structural Practices for Erosion and Sediment Control Workshop” or equivalent Conservation Commission approved course within three years prior to the examination date, and obtaining a passing score on the Level 2 certification examination.

ii. Plan Reviewers

- a. Course and Exam: Completing at least 6 months of work experience in the field of erosion and sediment control, registering for and attending an approved and posted Conservation Commission “Introduction to Design Seminar” (Level 2), submitting the appropriate application form prior to the examination for review and approval by the Conservation Commission, and obtaining a passing score on the Level 2 certification examination. In lieu of 6 months of work experience, an individual may obtain Level IB certification.

[or]

- b. Exam Only: Completing at least 6 months of work experience in the field of erosion and sediment control, registering for and attending a Conservation Commission approved and posted Level 2 examination date, submitting the appropriate application form prior to the examination for review and approval by the Conservation Commission, providing proof of attendance from a Conservation Commission “Design of Vegetative Measures and Structural Practices for Erosion and Sediment Control Workshop” or equivalent Conservation Commission approved course within three years prior to the examination date, and obtaining a passing score on the Level 2 certification examination. In lieu of 6 months of work experience, an individual may obtain Level IB certification.

- (d) Awareness Seminar (Level I): A notice of satisfactory completion will be issued upon registering for and attending a Conservation Commission approved and posted “Awareness Seminar” and submitting an information form to the Conservation Commission.

(3) Application

- (a) Those seeking “Certified Personnel” status through training and examination must submit a completed application form. The application form, developed by the Executive Director and approved by the Conservation Commission, must contain a signed certification statement confirming that all information on the application form is true.
- (b) Any person seeking certification through examination or by a combination of training and examination (except those seeking “Certified Personnel” status through training and examination) must submit a completed application form prior to examination. The application form, developed by the Executive Director and approved by the Conservation Commission, must contain a verification of all relevant work experience and training, and a signed certification statement confirming that all statements in the application are true.

- (c) Incomplete applications will be returned to the applicant and certification will be denied.
- (d) All applications will be reviewed by the Conservation Commission to determine eligibility for certification. All applicants will be notified of the results of the review within 60 days of the receipt of the application. An applicant may appeal the review, in writing, to the Conservation Commission Board within 10 days of the Conservation Commission's determination. No applicant will be approved for certification unless all the requirements are satisfied.

(4) Examination

- (a) An individual may take a certification examination for the desired certificate of successful completion of training if he or she meets the "Eligibility Requirements" discussed in Section 2.
- (b) An applicant who fails an examination will be allowed to retake the appropriate exam within one year.
- (c) All examinations will be timed with open course materials.
- (d) A passing score of 70% will be required on the appropriate certification exam.
- (e) All applicants will be notified in writing within 60 days of the results of the examinations by the Conservation Commission.
- (f) An applicant who fails the examination twice must take the course again.
- (g) All examinations will be proctored by approved Conservation Commission staff or a pool of Conservation Commission approved proctors. Instructors must schedule the services of an approved proctor and notify the Conservation Commission 30 days prior to the examination date.

(5) Revocation of Certification

- (a) The Conservation Commission shall have the authority to revoke the certification of any person obtaining certification pursuant to this Chapter upon a finding by a majority of members of the Conservation Commission that any of the following grounds exist:
 - i. The certification was obtained through fraud, misrepresentation, or making a false statement; or
 - ii. The certified person has violated or cooperated with others in violating a provision of these regulations; or

- iii. The certified person has made any misleading, deceptive, untrue or fraudulent representation in the course of the practice of a business or profession involving any certification under this Chapter; or
 - iv. The certified person has not obtained the requisite number of continuing education credits required to maintain certification; or
 - v. The certified person knowingly performs any act which in any way aids, assists, procures, advises or encourages any uncertified person under this Chapter to practice a business or profession involving certification under this Chapter.
- (b) If the Conservation Commission determines that revocation of a person's certification is to be considered, the Conservation Commission shall notify such person of the date and time that the Conservation Commission will consider the revocation and the reason(s) for the determination.
- (c) Upon receiving notification that a certification is to be considered for revocation, a person shall be entitled to appear before the Conservation Commission in a duly called meeting to explain the circumstances surrounding such proposed revocation and the Conservation Commission in its sole discretion, may determine whether a certification is to be revoked upon the affirmative vote of a majority of the members of the Conservation Commission.

Authority O.C.G.A. §§ 2-6-27(7.1) and 12-7-19.

600-8-1-.05 – Trainer/Instructor Guidelines

(1) Eligibility Requirements

- (a) Level 1 (Fundamentals, Advanced Fundamentals, and Awareness Seminars)
Trainers and instructors shall meet at least the following minimum requirements:
- i. Education: A four-year college degree or five years experience in the field of erosion and sediment control.
 - ii. Experience: Five years of experience in the field of erosion and sediment control. Where years of experience are used in lieu of the education requirement, a total of 10 years field experience is required.
 - iii. Approval by the Conservation Commission and the Stakeholder Advisory Board; and
 - iv. Successful completion of "Level 1 Trainer and Instructor Seminar."

(b) Level 2 (Introduction to Design Seminar) Trainers and instructors shall meet at least the following minimum requirements:

- i. Education: A four-year college degree in engineering or natural sciences, or five years of professional licensure in the field of engineering, architecture, landscape architecture, forestry, geology, or land surveying or as a CPESC.
- ii. Experience: Five years of experience in the field of erosion and sediment control. Where years of professional licensure or CPESC serves in lieu of a four-year college degree, ten years of experience in the field of erosion and sediment control shall be required.
- iii. Approval by the Conservation Commission and the Stakeholder Advisory Board; and
- iv. Successful completion of the “Level 2 Trainer and Instructor Seminar.”

(2) Application for Trainer/Instructor

- (a) Any person seeking the Conservation Commission’s approval as a Trainer/Instructor to present the education courses should submit the appropriate completed application form to the Conservation Commission at least 60 days prior to the scheduled Trainer/Instructor course date. The application form developed by the Executive Director and approved by the Conservation Commission, must contain a verification of the appropriate combination of education and work experience and a signed certification statement confirming that all statements in the application are true.
- (b) Incomplete applications will be returned to the applicant. All applications must be received by the Conservation Commission, postmarked at least 60 days prior to the scheduled course date.
- (c) All applications will be reviewed by the Conservation Commission to determine eligibility for course attendance and as a pre-requisite for approval as a qualified trainer/instructor. All applicants will be notified of the result of the review within 30 days of the receipt of the application. Any applicant may appeal the review in writing to the Conservation Commission Board within 10 days of the Conservation Commission’s determination. No applicant will be approved to attend the course unless all the requirements are satisfied.
- (d) Applicants, who have been found ineligible to attend the course, may request further consideration by submitting a letter to the Conservation Commission Board with the necessary evidence of additional considerations.

(3) Trainer/Instructor Course Attendance And Examination

- (a) Any qualified individual, who meets the “Eligibility Requirements” in Section 600-8-1-.05(1), may attend the Trainer/Instructor course and take the examination for approved trainer/instructor.
- (b) An individual, who is unable to attend the course and take the examination at the time scheduled, shall notify the Conservation Commission at least 48 hours prior to the date of the course if possible. Such individual shall be rescheduled for the next course and examination.
- (c) An applicant who attends the course but fails the examination will be allowed to retake the appropriate exam within one year. After the one-year period has elapsed, an applicant will be required to submit a new application in order to take the examination. An application for course attendance must be received by the Conservation Commission at least 60 days prior to the scheduled course date to be eligible to attend the course and take the examination.
- (d) A minimum passing score of 85% will be required on the examination.
- (e) All applicants will be notified in writing within 60 days of the results of the examinations.

(4) Course Procedures

- (a) All approved trainers/instructors must provide schedules with corresponding agendas and materials to the Conservation Commission at least 30 days prior to the date of the courses and the course agendas and materials must be followed in strict adherence to the one adopted by the Conservation Commission. Instructors must provide the maximum number of attendees to the Conservation Commission 30 days prior to the date of the course.
- (b) The Conservation Commission will conduct random audits to ensure approved trainers/instructors are following approved course curriculum and approved proctors are present and conducting examinations as instructed.

(5) Revocation of Trainer/Instructor Status

- (a) The Conservation Commission may revoke its certification of the trainer/instructor upon a finding by a majority of the Conservation Commission that any of the following grounds exist:
 - i. The certification was obtained through fraud, misrepresentation, or making a false statement; or

- ii. The certified person has violated or cooperated with others in violating a provision of these regulations; or
 - iii. The certified person has not demonstrated reasonable care, judgment, or application of his/her knowledge and ability in the performance of his/her duties; or
 - iv. The certified person has made any misleading, deceptive, untrue or fraudulent representation in the course of the practice of a business or profession involving any certification under this Chapter; or
 - v. The certified person has not obtained the requisite number of continuing education credits required to maintain certification; or
 - vi. The certified person has engaged in any unprofessional, immoral, unethical, deceptive or deleterious conduct or practice harmful to the public, which conduct or practice materially affects the fitness of the certified person to practice a business or profession involving the certification under this Chapter; or
 - vii. The certified person knowingly performs any act which in any way aids, assists, procures, advises or encourages any uncertified person under this Chapter to practice a business or profession involving certification under this Chapter; or
 - viii. The certified person has been adjudged mentally incompetent by a court of competent jurisdiction within or without this state; or
 - ix. The certified person has displayed an inability to practice a business or profession involving certification under this Chapter with reasonable skill and safety to the public or has been unable to perform such business or profession with reasonable skill and safety to the public by reason of illness, use of alcohol, drugs, narcotics, chemicals, or any other type of substance.
- (b) If the Conservation Commission determines that revocation of a person's certification is to be considered, the Conservation Commission shall notify such person of the date and time that the Conservation Commission will consider the revocation and the reason(s) for the determination.
- (c) Upon receiving notification that a certification is to be considered for revocation, a person shall be entitled to appear before the Conservation Commission in a duly called meeting to explain the circumstances surrounding such proposed revocation and the Conservation Commission in its sole discretion, may determine whether a certification is to be revoked upon the affirmative vote of a majority the members of the Conservation Commission.

Authority O.C.G.A. §§ 2-6-27(7.1) and 12-7-19.

600-8-1-.06 – Re-certification Guidelines

(1) Expiration of Certification

A certification provided by achieving the requirements established by the Conservation Commission shall expire no later than three years after its issuance.

(2) Requirements for Re-certification

A certification will be extended or renewed by attending and participating in at least four hours of approved continuing education courses, as established by the Conservation Commission, every three years after its issuance.

Authority O.C.G.A. §§ 2-6-27(7.1) and 12-7-19.